

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
IP-Enabled Services	)	WC Docket No. 04-36
	)	
E911 Requirements for IP-Enabled Service Providers	)	WC Docket No. 05-196
	)	

**PETITION FOR RECONSIDERATION/CLARIFICATION AND/OR  
WAIVER BY COMPTel**

For the reasons stated herein, CompTel (“Petitioner”), pursuant to 47 C.F.R. § 1.429, and through counsel, hereby requests that the Commission reconsider and/or clarify, portions of its First Report and Order in the above captioned proceeding, or in the alternative grant a waiver of certain requirements set forth therein.<sup>1</sup> Specifically, Petitioner requests that the Commission clarify that the customer notification and warning requirements set forth in § 9.5(e) of the Commission Rules do not apply to interconnected VoIP service providers providing non-nomadic VoIP services to business customers receiving T1 equivalent services based on the fact that E911 services received via traditional T1 broadband connection are functionally equivalent to the same service provided via VoIP, with no discernible difference in risk of E911 failure.

**I. BACKGROUND**

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<sup>1</sup> *In the Matter of IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, WC Docket Nos.04-36, 05-196, FCC 05-116, 36 CR 1 First Report and Order and Notice of Proposed Rulemaking, (rel. June 3, 2005) (“*VOIP E911 Order*”).

In § 9.5 of the Commission Rules, the Commission established new requirements for interconnected VoIP providers to provide E911 services to consumers, setting forth certain specific routing and technical criteria, both generally and in connection with mobile, or “nomadic”, VoIP services. In addition, the Commission specifically instituted a new notice requirement to subscribers of interconnected VoIP services, including the provision of warning labels, that highlights any limitations or risks of the E911 services provided by such providers as compared to traditional E911 services received entirely over the PSTN.<sup>2</sup>

In the *VOIP E911 Order*, the Commission stated that it was taking this action “to advance the goal of public safety by imposing E911 obligations on certain VoIP providers . . . .” in order to avoid situations where consumers are unable to reach

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<sup>2</sup> See 47 C.F.R § 9.5(e). “Each interconnected VoIP service provider shall:

- (1) Specifically advise every subscriber, both new and existing, prominently and in plain language, of the circumstances under which *E911 service may not be available through the interconnected VoIP service or may be in some way limited by comparison to traditional E911 service*. Such circumstances include, but are not limited to, relocation of the end user’s IP-compatible CPE, use by the end user of a non-native telephone number, broadband connection failure, loss of electrical power, and delays that may occur in making a Registered Location available in or through the ALI database;
- (2) Obtain and keep a record of affirmative acknowledgement by every subscriber, both new and existing, of having received and understood the advisory described in subparagraph (1); and
- (3) Distribute to its existing subscribers warning stickers or other appropriate labels warning subscribers if E911 service may be limited or not available and instructing the subscriber to place them on or near the equipment used in conjunction with the interconnected VoIP service. Each interconnected VoIP provider shall distribute such warning stickers or other appropriate labels to each new subscriber prior to the initiation of that subscriber’s service.”

emergency services through 911.<sup>3</sup> The Commission also cited several examples of just such instances.<sup>4</sup> The Commission, in part, justified its actions on the fact that new communications technologies, such as VoIP, “have posed technical and operational challenges to the 911 system, necessitating the adoption of a uniform national approach to ensure that the quality and reliability of 911 service is not damaged by the introduction of such communications technologies.”<sup>5</sup>

In contrast, however, the Commission also noted that it understood the need to adopt a “balanced approach” that takes into consideration, among other things, the expectation of consumers and the needs of the interconnected VoIP service providers.<sup>6</sup> The Commission continued, stating that requiring all interconnected VoIP service providers to adopt an E911 solution:

appropriately discharges [it’s] statutory obligation to promote an effective nationwide 911/E911 emergency access system by recognizing the needs of the public safety community to get call back and location information and *balancing those needs against existing technological limitation of interconnected VoIP providers.*<sup>7</sup>

The Commission further reiterated its overriding concern that consumers are not able to reach emergency services by dialing 911 when using VoIP services, and indicated that its actions were aimed at minimizing such likelihood.<sup>8</sup>

## II. DISCUSSION

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<sup>3</sup> *VoIP E911 Order* at ¶3, n.2

<sup>4</sup> *Id.* at n.2

<sup>5</sup> *Id.* at ¶ 8

<sup>6</sup> *Id.* at ¶ 5

<sup>7</sup> *Id.* at ¶ 36. Emphasis added.

<sup>8</sup> *Id.*

The Commission set forth in the *VoIP E911 Order* its obligation to ensure ubiquitous, reliable access to the existing 911 systems, while balancing the needs and burdens of VoIP providers, and the expectations of the public. In its analysis, it recognized that while there is an overriding need to ensure the safety of users of the telecommunications infrastructure in the U.S., there are also countervailing considerations, namely the technological and financial limitations of those providers required to adopt an appropriate E911 solution. In addition, as highlighted by the Commission, there is also the existing expectation of current users of the telecommunications system – namely that with respect to the availability of emergency services, consumers expect VoIP services to operate like traditional PSTN services.<sup>9</sup> The adopted rules attempt to create just such a balance.

However, in taking the action it did, the Commission appears to have unintentionally cast its net too broadly, potentially creating new and burdensome requirements for a certain category of interconnected VoIP providers, namely those providing non-nomadic T1 equivalent services to the business community, without any of the resulting benefits it sought to achieve with the new Rules. Specifically, the VoIP services provided to these business subscribers already include access to the existing E911 wireline system on an equivalent basis as existing traditional wireline T1 systems and services, posing no new or different limitations over traditional T1 services. In this regard, such services already comply with the substantive technical requirements of §§ 9.5(a)-(c) of the Commission Rules, and as such do not place subscribers at any additional risk of loss of

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<sup>9</sup> *Id.* at ¶ 23. (“The record clearly indicates, however, that consumers expect that VoIP services that are interconnected with the PSTN will function in some way s like a ‘regular telephone’ service.”)

E911 services.<sup>10</sup> In addition, such services are not mobile; all services are provided exclusively to and from the “home” location of the business customer. Therefore, the additional requirements of § 9.5(d), which addresses the ability of VoIP providers to effectively provide E911 services when the CPE is not located at the customer’s “home” location, are not applicable. Indeed, the E911 services provided by such Interconnected VoIP service providers are already functionally identical to the traditional E911 services consumers have come to expect and rely upon.

Despite the fact that these providers of VoIP services to the business community have already complied with the Commission’s technical and functional requirements, and thus are not part of the class of service providers the Commission intended to encompass in the *VoIP E911 Order*, the significant notification and warning requirements set forth in § 9.5(e), if read literally, appear nonetheless to apply to this category of providers. This scenario has the effect of creating a situation that could significantly increase such providers’ costs and administrative burden -- costs that will ultimately be borne by consumers -- without providing any of the added benefit or protection to subscribers, as contemplated by the Commission Rules. As referenced above, § 9.5(e) requires each interconnected VoIP service provider to advise *every* subscriber of the circumstances under which E911 service “may not be available through interconnected VoIP service or may in some way be limited by comparison to traditional E911 services.”<sup>11</sup> If the Rule stopped there, then such VoIP providers would have no notification or warning obligation under the Rule, as the services they are providing today pose no different risks or limitations on E911

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<sup>10</sup> See 47 C.F.R. § 9.5(a)-(c). See also *VoIP E911 Order* at n.2, citing specific examples where consumers were unable to reach emergency services through the use of E911 provided via VoIP.

<sup>11</sup> See 47 C.F.R. § 9.5(e). Emphasis added.

availability than those risks and limitations on E911 service that currently exist with respect to voice service provided over traditional digital T1 technologies. The Rule, however, continues, requiring customer notification in certain specific “circumstances” which apparently arise by virtue of the fact that the voice services are provided through VoIP technology, despite the fact that those circumstances do not in actuality limit the availability of E911 services as compared to traditionally provided E911 service.<sup>12</sup>

Specifically, § 9.5(e)(1) explicitly requires that customer notice be provided of the risk to E911 availability due to, for example, “broadband connection failure” or “loss of electrical power.”<sup>13</sup> Presumably this requirement is borne out of the fact that there is no independent line-side power supply with a broadband connection as would traditionally be the case with residential POTS, so if the broadband connection fails, either due to connectivity issues or lack of electrical power, no calls could be made, including to 911. This analysis, however, fails to recognize that the technical, functional, and practical characteristics of such “broadband connection” used in the provision of VoIP services are identical to traditional digital T1 service, routinely utilized by business customers, both historically and today. Just as a broadband or electrical outage could render a VoIP service inoperable for the period of the outage, so too would such outage render traditional T1 service inoperable. Indeed, broadband T1 services, often provided using DSL, cable, or fiber, constitute the very broadband media that form the basis for the VoIP connection. In this regard, there is no functional difference, limitation, or additional risk associated with the availability of E911 via Interconnected VoIP services provided on a non-mobile basis solely to business customers, than over traditional digital T1 business services. Simply put,

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<sup>12</sup> *See Id.* at § 9.5(e)(1).

<sup>13</sup> *See Id.*

they are the same service, just using a different protocol, and E911 functionality operates no differently between them.

Furthermore, the remaining “circumstances” cited by the Commission in § 9.5(e)(1) triggering the notice requirement, namely (i) relocation of the end user’s IP-compatible CPE, (ii) use by the end user of a non-native telephone number, or (iii) delays that may occur in making a Registered Location available in or through the ALI database, are simply not applicable to the provision of VoIP broadband voice services strictly to non-mobile business customers, as such customers could only use the service from their “home” location, which would be readily available through the ALI database and MSAG.

It is clear that these non-mobile VoIP services as provided only to business customers already provide the functionality and reliability that the Commission is seeking to achieve in its newly enacted Rules, and as such the costly notification and warning requirements in § 9.5(e) should not apply to such providers.

### III. CONCLUSION

Petitioner thus respectfully requests that the Commission reconsider and/or clarify its Rules as they pertain to interconnected VoIP providers who provide non-mobile services to business customers, specifically eliminating the notice and warning requirements set forth in § 9.5(e), or, in the alternative, grant all such providers an appropriate waiver of § 9.5(e) of the Rules so as not to unnecessarily impose potentially significant additional costs and administrative burden on such providers without any concomitant benefit to consumers

Respectfully submitted,

COMPTEL

By:

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